

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICE MICKLING,

Petitioner,

v.

WARDEN TRATE,

Respondent.

No. 1:22-cv-00010 JLT SKO (HC)

ORDER ADOPTING IN FULL THE
FINDINGS AND RECOMMENDATIONS
AND DENYING PETITIONER'S MOTION
FOR DEFAULT JUDGMENT

(Docs. 9, 11)

Petitioner has moved the Court to enter default judgment. (Doc. 9.) The assigned magistrate judge issued Findings and Recommendations to deny Petitioner's motion. (Doc. 11.) The magistrate judge observed that the respondent was granted an extension of time to file an answer, and the deadline to do so has not expired. (*Id.* at 1.) In addition, the magistrate judge noted that "even if Respondent had failed to timely file an answer, Petitioner would not be entitled to default." (*Id.*, citing *Gordon v. Duran*, 895 F.2d 610, 612 (9th Cir. 1990); *Bleitner v. Welborn*, 15 F.3d 652, 653 (7th Cir. 1994).)

The Court served the findings and recommendations on all parties, which contained notice that any objections thereto were to be filed within 21 days after service. (Doc. 11 at 2.) In addition, the Court advised the parties that "failure to file objections within the specified time may waive the right to appeal the District Court's order." (*Id.*, citing *Martinez v. Ylst*, 951 F.2d

1153 (9th Cir. 1991).) No objections were filed, and the deadline to do so has expired.

According to 28 U.S.C. § 636 (b)(1)(C), the Court conducted a *de novo* review of the case.

Having carefully reviewed the entire file, the Court concludes that the Findings and

Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

1. The Findings and Recommendations issued on March 15, 2022 (Doc. 11), are **ADOPTED** in full.
2. Petitioner's motion for default (Doc. 9) is **DENIED**; and
3. The matter is referred to the assigned magistrate judge for further proceedings pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

IT IS SO ORDERED.

Dated: **April 11, 2022**


UNITED STATES DISTRICT JUDGE